

for mediation if the parties agree to it in connection with a due process request. Should the parties decide to mediate their disputes in the absence of a due process request, none of the state requirements for mediation apply.

### C. Effect on Due Process Hearing Timelines

The process for choosing panel members and scheduling the due process hearing will occur simultaneously with the mediation process. In the event that the due process hearing is scheduled for a date prior to the date of completion of the mediation, one or both of the parties will need to request and obtain an extension of the due process hearing timeline from the Chairperson of the three member panel if the desire is to proceed with the mediation.

### Civil Proceedings

Any party aggrieved by the findings and decisions made in a hearing may appeal the decision of the hearing panel to the state courts as provided in Chapter 536, RSMo., or in federal court without regard to the amount in controversy. **To the extent that Chapter 536, RSMo. provisions conflict with the IDEA judicial review requirements at 34 CFR 300.512(b) the IDEA judicial review provisions are controlling.** The court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and shall base its decision on the preponderance of the evidence, granting the relief the court deems appropriate.

### Maintenance of Placement

During the pendency of any administrative or judicial proceeding pursuant to Section 162.950 and Section 162.960 RSMo, there will be no change in the assignment or status of a student with a disability unless such change has been made with the written consent of the parent or guardian. However, students who are endangering themselves or others can have their status changed, without the written consent of the parent or guardian, pursuant to court order.

In an instance where a student is initially enrolling in school and the parents or the local school district request a hearing on the assignment of the student in a special education program, the student, with consent of the parents, will be placed in the public school program, pending completion of the due process proceedings in accordance with the provisions of Section 162.955, RSMo.

When a school district contacts a State Board of Education operated program for consideration of a student's eligibility for acceptance and enrollment, the district shall assure that the student will be enrolled or will maintain enrollment in the district pending final action by the state.

If the decision of a hearing panel in a due process hearing agrees with the student's parents that a change of placement is appropriate, that placement must be treated as an agreement between the local school district or responsible public agency and the parents for purposes of "stay-put" pending and during judicial appeal.

### Attorneys' Fees

In any action or proceeding brought under 20 U.S.C. Section 1415(E), the court, in its discretion, may award reasonable attorneys' fees as part of the cost to the parent or guardian who is a prevailing party pursuant to 20 U.S.C. Section 1415(E)(4).